THE

ADDRESS

OF THE

HON. ABRAHAM LINCOLN,

IN INDICATION OF

THE POLICY OF THE FRAMERS OF THE CONSTITUTION AND THE PRINCIPLES OF THE REPUBLICAN PARTY,

Delivered at Cooper Institute, February 27th, 1860,

ISSUED BY

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WITH NOTES BY

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Members of the Board of Control.

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PREFACE.

This edition of Mr. Lincoln's address has been prepared and published by the Young Men's Republican Union of New-York, to exemplify its wisdom, truthfulness and learning. No one who has not actually attempted to verify its details can understand the patient research and historical labor which it embodies. The history of our earlier politics is scattered through numerous journals, statutes, pamphlets, and letters; and these are defective in completeness and accuracy of statement, and in indices and tables of contents. Neither can any one who has not travelled over this precise ground, appreciate the accuracy of every trivial detail, or the self-denying impartiality with which Mr. Lincoln has turned from the testimony of "the fathers," on the general question of Slavery, to present the single question which he discusses. From the first line to the last—from his premises to his conclusion, he travels with a swift, unerring directness which no logician ever excelled—an argument complete and full, without the affectation of learning, and without the stiffness which usually accompanies dates and details. A single, easy, simple sentence of plain Anglo-Saxon words contains a chapter of history, that, in some instances, has taken days of labor to verify, and which must have cost the author months of investigation to acquire. And, though the public should justly estimate the labor bestowed on the facts which are stated, they cannot estimate the greater labor involved on those which are omitted—how many pages have been read—how many works examined—what numerous statutes, resolutions, speeches, letters, and biographies have been looked through. Commencing with this address, as a political pamphlet, the reader will leave it as an historical work—brief, complete, profound, impartial, truthful—which will survive the time and the occasion that called it forth, and be esteemed hereafter, no less for its intrinsic worth than its unpretending modesty.

NEW-YORK, *September*, 1860.

ADDRESS.

MR PRESIDENT AND FELLOW-CITIZENS OF NEW-YORK:—The facts with which I shall deal this evening are mainly old and familiar; nor is there anything new in the general use I shall make of them. If there shall be any novelty, it will be in the mode of presenting the facts, and the inferences and observations following that presentation.

In his speech last autumn, at Columbus, Ohio, as reported in "The New-York Times," Senator Douglas said:

"*Our fathers, when they framed the Government under which we live, understood this question just as well, and even better, than we do now.*"

I fully indorse this, and I adopt it as a text for this discourse. I so adopt it because it furnishes a precise and an agreed starting point for a discussion between Republicans and that wing of the Democracy headed by Senator Douglas. It simply leaves the inquiry: "*What was the understanding those fathers had of the question mentioned?*"

What is the frame of Government under which we live?

The answer must be: "The Constitution of the United States." That Constitution consists of the original, framed in 1787, (and under which the present government first went into operation,) and twelve subsequently framed amendments, the first ten of which were framed in 1789. (1)

Who were our fathers that framed the Constitution? I suppose the "thirty-nine" who signed the original instrument may be fairly called our fathers who framed that part of the present Government. It is almost exactly true to say they framed it, and it is altogether true to say they fairly represented the opinion and

NOTE 1.—The Constitution is attested September 17, 1787. It was ratified by all of the States, excepting North Carolina and Rhode Island, in 1788, and went into operation on the first Wednesday in January, 1789. The first Congress proposed, in 1789, ten articles of amendments, all of which were ratified. Article XI. of the amendments was prepared by the Third Congress, in 1794, and Article XII. by the Eighth Congress, in 1803. Another Article was proposed by the Eleventh Congress, prohibiting *citizens* from receiving titles of nobility, presents or offices, from foreign nations. Although this has been printed as one of the amendments, it was in fact never ratified, being approved by but twelve States. *Vide* Message of President Monroe, Feb. 4, 1818.

sentiment of the whole nation at that time. Their names, being familiar to nearly all, and accessible to quite all, need not now be repeated. (2)

I take these "thirty-nine" for the present, as being "our fathers who framed the Government under which we live."

What is the question which, according to the text, those fathers understood "just as well, and even better than we do now?"

It is this: Does the proper division of local from federal authority, or anything in the Constitution, forbid *our Federal Government* to control as to slavery in *our Federal Territories?*

Upon this, Senator Douglas holds the affirmative, and Republicans the negative. This affirmation and denial form an issue; and this issue—this question—is precisely what the text declares our fathers understood "better than we."

Let us now inquire whether the "thirty-nine," or any of them, ever acted upon this question; and if they did, how they acted upon it—how they expressed that better understanding?

In 1784, three years before the Constitution—the United States then owning the Northwestern Territory, and no other, (3) the Congress of the Confederation had before them the question of prohibiting slavery in that Territory; and four of the "thirty-nine,"

NOTE 2.—The Convention consisted of *sixty-five* members. Of these *ten* did not attend the Convention, and *sixteen* did not sign the Constitution. Of these sixteen, six refused to sign, and published their reasons for so refusing, *viz.:* Robert Yates and John Lansing, of New-York; Edmund Randolph and George Mason, of Virginia; Luther Martin, of Maryland, and Elbridge Gerry, of Mass. Alexander Hamilton alone subscribed for New-York, and Rhode Island was not represented in the Convention. The names of the "thirty-nine," and the States which they represented are subsequently given.

NOTE 3.—The cession of territory was authorized by New-York, Feb. 19, 1780; by Virginia, January 2, 1781, and again, (without certain conditions at first imposed,) "at their sessions, begun on the 20th day of October, 1783;" by Mass., Nov. 18, 1784; by Conn., May —, 1786; by S. Carolina, March 8, 1787; by N. Carolina, Dec. —, 1789; and by Georgia at some time prior to April, 1802.

The deeds of cession were executed by New-York, March 1, 1781; by Virginia, March 1, 1784; by Mass., April 19, 1785; by Conn., Sept. 13, 1786; by S. Carolina, August 9, 1787; by N. Carolina, Feb. 25, 1790; and by Georgia, April 24, 1802. Five of these grants were therefore made before the adoption of the Constitution, and one afterward; while the sixth (North Carolina) was authorized before, and consummated afterward. The cession of this State contains the express proviso "that no regulations made, or to be made by Congress, shall tend to emancipate slaves." The cession of Georgia conveys the Territory subject to the Ordinance of '87, except the provision prohibiting slavery.

These dates are also interesting in connection with the extraordinary assertions of Chief Justice Taney, (19 How, page 434,) that "the example of Virginia was soon afterwards followed by other States," and that (p. 436) the power in the Constitution "to dispose of and make all needful rules and regulations respecting the Territory or other property belonging to the United States," was intended only "to transfer to the new Government the property then held in common!" "and has no reference whatever to any Territory or other property, which the new sovereignty might afterwards itself acquire." On this subject, *vide* Federalist, No. 43, sub. 4 and 5.

who afterward framed the Constitution, were in that Congress, and voted on that question. Of these, Roger Sherman, Thomas Mifflin, and Hugh Williamson voted for the prohibition,(4) thus showing that, in their understanding, no line dividing local from federal authority, nor anything else, properly forbade the Federal Government to control as to slavery in federal territory. The other of the four—James M'Henry—voted against the prohibition, showing that, for some cause, he thought it improper to vote for it. (5)

In 1787, still before the Constitution, but while the Convention was in session framing it, and while the Northwestern Territory still was the only territory owned by the United States, the same question of prohibiting slavery in the territory again came before the Congress of the Confederation; and two more of the "thirty-nine" who afterward signed the Constitution, were in that Congress, and voted on the question. They were William Blount and William Few;(6) and they both voted for the prohibition—thus showing that, in their understanding, no line dividing local from federal authority, nor anything else, properly forbade the Federal Government to control as to slavery in federal territory. This time the prohibition became a law, being part of what is now well known as the Ordinance of '87.(7)

NOTE 4.—Sherman was from Connecticut; Mifflin from Penn.; Williamson from North Carolina, and M'Henry from Maryland.

NOTE 5.—What Mr. M'Henry's views were, it seems impossible to ascertain. When the Ordinance of '87 was passed he was sitting in the Convention. He was afterward appointed Secretary of War; yet no record has thus far been discovered of his opinion. Mr. M'Henry also wrote a biography of La Fayette, which, however, cannot be found in any of the public libraries, among which may be mentioned the State Library at Albany, and the Astor, Society, and Historical Society Libraries, at New-York.

Hamilton says of Him, in a letter to Washington, (*Works*, vol. 6, p. 65): "M'Henry you know. He would give no strength to the Administration, but he would not disgrace the office; his views are good."

NOTE 6.—William Blount was from North Carolina, and William Few, from Georgia—the two States which afterward ceded their territory to the United States. In addition to these facts the following extract from the speech of Rufus King in the Senate, on the Missouri Bill, shows the entire unanimity with which the Southern States approved the prohibition:—

"The State of Virginia, which ceded to the United States her claims to this Territory, consented, by her delegates in the old Congress, to this Ordinance. Not only Virginia, but North Carolina, South Carolina and Georgia, by the unanimous votes of their delegates in the Old Congress, approved of the Ordinance of 1787, by which Slavery is forever abolished in the Territory northwest of the river Ohio. Without the votes of these States the Ordinance could not have been passed; and there is no recollection of an opposition from any of these States to the act of confirmation passed under the actual Constitution."

NOTE 7.—"The famous ordinance of Congress of the 13th July, 1787, which has ever since constituted, in most respects, the model of all our territorial governments, and is equally remarkable for the brevity and exactness of its text, and for its masterly

The question of federal control of slavery in the territories, seems not to have been directly before the Convention which framed the original Constitution; and hence it is not recorded that the "thirty-nine," or any of them, while engaged on that instrument, expressed any opinion on that precise question. (8)

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display of the fundamental principles of civil and religious liberty."—*Justice Story*, 1 *Commentaries*, §1812.

"It is well known that the Ordinance of 1787 was drawn by the Hon. Nathan Dane, of Massachusetts, and adopted with scarcely a verbal alteration by Congress. It is a noble and imperishable monument to his fame."—*Id.* note.

The ordinance was reported by a committee, of which Wm. S. Johnson and Charles Pinckney were members. It recites that, "for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions, are erected; to fix and establish those principles as the basis of all laws, constitutions and governments which forever hereafter shall be formed in the said Territory; to provide also for the establishment of States and permanent government, and for their admission to a share in the federal councils, on an equal footing with the original States, at as early periods as may be consistent with the general interest—

"It is hereby ordained and declared, by the authority aforesaid, that the following articles shall be considered as articles of compact between the original States and the people and States in the said Territory, and forever remain unalterable, unless by common consent, to wit:" * * * * * * * * * *

"*Art.* 6. There shall be neither slavery nor involuntary servitude in the said Territory otherwise than in the punishment of crimes whereof the party shall have been duly convicted; provided always that any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service."

On passing the ordinance, the ayes and nays were required by Judge Yates, of New-York, when it appeared *that his was the only vote in the negative.*

The ordinance of April 23, 1784, was a brief outline of that of '87. It was reported by a Committee, of which Mr. Jefferson was chairman, and the report contained a slavery prohibition intended to take effect in 1800. This was stricken out of the report, six States voting to retain it—three voting to strike out—one being divided (N. C.,) and the others not being represented. (The assent of nine States was necessary to retain any provision.) And this is the vote alluded to by Mr. Lincoln. But subsequently, March 16, 1785, a motion was made by Rufus King to commit a proposition "that there be neither slavery nor involuntary servitude" in any of the Territories; which was carried by the vote of eight States, including Maryland.—*Journal Am. Congress*, vol. 4, pp. 373, 380, 481, 752.

When, therefore, the ordinance of '87 came before Congress, on its final passage, the subject of slavery prohibition had been "*agitated*" for nearly three years; and the deliberate and almost unanimous vote of that body upon that question leaves no room to doubt what the fathers believed, and how, in that belief, they acted.

NOTE 8.—It singularly and fortunately happens that one of the "thirty-nine," "while engaged on that instrument," viz., while advocating its ratification before the Pennsylvania Convention, did express an opinion upon this "precise question," which opinion was *never* disputed or doubted, in that or any other Convention, and was accepted by the opponents of the Constitution, as an indisputable fact. This was the celebrated James Wilson, of Pennsylvania. The opinion is as follows:—

MONDAY, *Dec.* 3, 1787.

"With respect to the clause restricting Congress from prohibiting the migration or importation of such persons as any of the States now existing shall think proper to admit, prior to the year 1808: The Hon. gentleman says that this clause is not only dark, but intended to grant to Congress, for that time, the power to admit the importation of slaves. No such thing was intended; but I will tell you what was done, and it gives me high pleasure that so much was done. Under the present Confederation, the States may admit the importation of slaves as long as they please; but by this article, after the year 1808, the Congress will have power to prohibit such importation, notwithstanding the disposition of any State to the contrary. I consider this as laying the foundation for banishing slavery out of this country; and though the period is more distant than I could wish, yet it will produce the same kind, gradual change which was pursued in Pennsylvania.

In 1789, by the first Congress which sat under the Constitution, an act was passed to enforce the Ordinance of '87, including the prohibition of slavery in the Northwestern Territory. The bill for this act was reported by one of the "thirty-nine," Thomas Fitzsimmons, then a member of the House of Representatives from Pennsylvania. It went through all its stages without a word of opposition, and finally passed both branches without yeas and nays, which is equivalent to an unanimous passage. (9) In this Congress there were sixteen of the thirty-nine fathers who framed the original Constitution. They were John Langdon, Nicholas Gilman, Wm. S. Johnson, Roger Sherman, Robert Morris, Thos.

It is with much satisfaction that I view this power in the general government, whereby they may lay an interdiction on this reproachful trade. But an immediate advantage is also obtained; for a tax or duty may be imposed on such importation, not exceeding $10 for each person; and this, sir, operates as a partial prohibition; it was all that could be obtained. I am sorry it was no more; but from this I think there is reason to hope that yet a few years, and it will be prohibited altogether. *And in the meantime, the new States which are to be formed will be under the control of Congress in this particular, and slaves will never be introduced amongst them.*"—2 *Elliott's Debates*, 423.

It was argued by Patrick Henry in the Convention in Virginia, as follows:

"May not Congress enact that every black man must fight? Did we not see a little of this in the last war? We were not so hard pushed as to make emancipation general. But acts of Assembly passed, that every slave who would go to the army should be free. Another thing will contribute to bring this event about. Slavery is detested. We feel its bad effects. We deplore it with all the pity of humanity. Let all these considerations press with full force on the minds of Congress. Let that urbanity which, I trust, will distinguish America, and the necessity of national defence—let all these things operate on their minds, they will search that paper, and see if they have power of manumission. And have they not, sir? Have they not power to provide for the general defence and welfare? May they not think that these call for the abolition of slavery? May they not pronounce all slaves free, and will they not be warranted by that power? There is no ambiguous implication, no logical deduction. The paper speaks to the point; they have the power in clear, unequivocal terms, and will clearly and certainly exercise it."—3 *Elliott's Debates*, 584.

Edmund Randolph, one of the framers of the Constitution, replied to Mr. Henry, admitting the general force of the argument, but claiming that, because of other provisions, it had no application to the *States* where slavery *then* existed; thus conceding that power to exist in Congress as to all territory belonging to the United States.

Dr. Ramsay, a member of the Convention of South Carolina, in his history of the United States, vol. 3, pages 36, 37, says: "Under these liberal principles, Congress, in organizing *colonies*, bound themselves to impart to their inhabitants all the privileges of coequal States, as soon as they were capable of enjoying them. In their infancy, *government was administered for them* without any expense. As soon as they should have 60,000 inhabitants, they were authorized to call a convention, and, by common consent, to form their own constitution. This being done, they were entitled to representation in Congress, and every right attached to the original States. These privileges are not confined to any particular country or *complexion*. They are communicable to the emancipated slave, (for in the new State of Ohio, slavery is altogether prohibited), to the copper-colored native, and all other human beings who, after a competent residence and degree of civilization, are capable of enjoying the blessings of regular government."

NOTE 9.—The Act of 1789, as reported by the Committee, was received and read Thursday, July 16th. The second reading was on Friday, the 17th, when it was committed to the Committee of the whole house, "on Monday next." On Monday, July 20th, it was considered in Committee of the whole, and ordered to a third reading on the following day; on the 21st, it passed the House, and was sent to the Senate. In the Senate it had its first reading on the same day, and was ordered to a second reading on the following day, (July 22d,) and on the 4th August it passed, and on the 7th was approved by the President.

Fitzsimmons, William Few, Abraham Baldwin, Rufus King, William Paterson, George Clymer, Richard Bassett, George Read, Pierce Butler, Daniel Carroll, James Madison. (10)

This shows that, in their understanding, no line dividing local from federal authority, nor anything in the Constitution, properly forbade Congress to prohibit slavery in the federal territory; else both their fidelity to correct principle, and their oath to support the Constitution, would have constrained them to oppose the prohibition.

Again, George Washington, another of the "thirty-nine," was then President of the United States, and, as such, approved and signed the bill; thus completing its validity as a law, and thus showing that, in his understanding, no line dividing local from federal authority, nor anything in the Constitution, forbade the Federal Government, to control as to slavery in federal territory.

No great while after the adoption of the original Constitution, North Carolina ceded to the Federal Government the country now constituting the State of Tennessee; and a few years later Georgia ceded that which now constitutes the States of Mississippi and Alabama. In both deeds of cession it was made a condition by the ceding States that the Federal Government should not prohibit slavery in the ceded country. (11) Besides this, slavery was then actually in the ceded country. Under these circumstances, Congress, on taking charge of these countries, did not absolutely prohibit slavery within them. But they did interfere with it—take control of it—even there, to a certain extent. In 1798, Congress organized the Territory of Mississippi. In the act of organization, they prohibited the bringing of slaves into the Territory, from any place without the United States, by fine, and giving freedom to slaves so brought. (12) This act passed both branches of Congress without yeas and nays. In that Congress were three of the "thirty-nine" who framed the original Constitution. They were John Langdon, George Read and Abraham Baldwin. (13) They all,

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NOTE 10.—The "sixteen" represented these States:—Langdon and Gilman, New Hampshire; Sherman and Johnson, Connecticut; Morris, Fitzsimmons and Clymer, Pennsylvania; King, Massachusetts; Paterson, New Jersey; Few and Baldwin, Georgia; Bassett and Read, Delaware; Butler, South Carolina; Carroll, Maryland; and Madison, Virginia.

NOTE 11—*Vide* note 3, *ante*.

NOTE 12.—Chap. 28, § 7, U. S. Statutes, 5th Congress, 2d Session.

NOTE 13.—Langdon was from New Hampshire, Read from Delaware, and Baldwin from Georgia.

probably, voted for it. Certainly they would have placed their opposition to it upon record, if, in their understanding, any line dividing local from federal authority, or anything in the Constitution, properly forbade the Federal Government to control as to slavery in federal territory.

In 1803, the Federal Government purchased the Louisiana country. Our former territorial acquisitions came from certain of our own States; but this Louisiana country was acquired from a foreign nation. In 1804, Congress gave a territorial organization to that part of it which now constitutes the State of Louisiana. New Orleans, lying within that part, was an old and comparatively large city. There were other considerable towns and settlements, and slavery was extensively and thoroughly intermingled with the people. Congress did not, in the Territorial Act, prohibit slavery; but they did interfere with it—take control of it—in a more marked and extensive way than they did in the case of Mississippi. The substance of the provision therein made, in relation to slaves, was:

First. That no slave should be imported into the territory from foreign parts.

Second. That no slave should be carried into it who had been imported into the United States since the first day of May, 1798.

Third. That no slave should be carried into it, except by the owner, and for his own use as a settler; the penalty in all the cases being a fine upon the violator of the law, and freedom to the slave. (14)

This act also was passed without yeas and nays. In the Congress which passed it, there were two of the "thirty-nine." They were Abraham Baldwin and Jonathan Dayton. (15) As stated in the case of Mississippi, it is probable they both voted for it. They would not have allowed it to pass without recording their opposition to it, if, in their understanding, it violated either the line properly dividing local from federal authority, or any provision of the Constitution.

In 1819–20, came and passed the Missouri question. Many votes were taken, by yeas and nays, in both branches of Congress, upon the various phases of the general question. Two of the

NOTE 14.—Chap. 38, § 10, U. S. Statutes, 8th Congress, 1st Session.

NOTE 15.—Baldwin was from Georgia, and Dayton from New Jersey.

"thirty-nine"—Rufus King and Charles Pinckney—were members of that Congress. (16) Mr. King steadily voted for slavery prohibition and against all compromises, while Mr. Pinckney as steadily voted against slavery prohibition and against all compromises. By this, Mr. King showed that, in his understanding, no line dividing local from federal authority, nor anything in the Constitution, was violated by Congress prohibiting slavery in federal territory; while Mr. Pinckney, by his votes, showed that, in his understanding, there was some sufficient reason for opposing such prohibition in that case. (17)

The cases I have mentioned are the only acts of the "thirty-nine," or of any of them, upon the direct issue, which I have been able to discover.

To enumerate the persons who thus acted, as being four in 1784, two in 1787, seventeen in 1789, three in 1798, two in 1804, and

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NOTE 16.—Rufus King, who sat in the old Congress, and also in the Convention, as the representative of Massachusetts, removed to New-York and was sent by that State to the U. S. Senate of the first Congress. Charles Pinckney was in the House, as a representative of South Carolina.

NOTE 17.—Although Mr. Pinckney opposed "slavery prohibition" in 1820, yet his views, with regard to the *powers* of the general government, may be better judged by his actions in the Convention:

FRIDAY, *June 8th*, 1787.—"Mr. Pinckney moved 'that the National Legislature shall have the power of negativing all laws to be passed by the State Legislatures, which they may judge improper,' in the room of the clause as it stood reported.

"He grounds his motion on the necessity of one supreme controlling power, and he considers this as the *corner-stone* of the present system; and hence, the necessity of retrenching the State authorities, in order to preserve the good government of the national council."—P. 400, *Elliott's Debates.*

And again, THURSDAY, *August 23d*, 1787, Mr. Pinckney renewed the motion with some modifications.—P. 1409, *Madison Papers.*

And although Mr. Pinckney, as correctly stated by Mr. Lincoln, "steadily voted against slavery prohibition, and against all compromises," he still regarded the passage of the Missouri Compromise as a great triumph of the South, which is apparent from the following letter.

CONGRESS HALL, *March 2d*, 1820, *3 o'clock at night.*

DEAR SIR:—I hasten to inform you, that this moment WE have carried the question to admit Missouri, and all Louisiana to the southward of 36° 30', free from the restriction of slavery, and give the South, in a short time, an addition of six, perhaps eight, members to the Senate of the United States. It is considered here by the slaveholding States, as a great triumph.

The votes were close—ninety to eighty-six—produced by the seceding and absence of a few moderate men from the North. To the north of 36° 30', there is to be, by the present law, restriction; which you will see by the votes, I voted against. But it is at present of no moment; it is a vast tract, uninhabited, only by savages and wild beasts, in which not a foot of the Indian claims to soil is extinguished, and in which, according to the ideas prevalent, no land office will be opened for a great length of time.

With respect, your obedient servant,

CHARLES PINCKNEY.

But conclusive evidence of Mr. Pinckney's views is furnished in the fact, that *he was himself a member of the Committee which reported the Ordinance of* '87, and that *on every occasion, when it was under the consideration of Congress, he voted against all amendments*—Jour. Am. Congress, *Sept. 29th*, 1786. *Oct. 4th.* When the ordinance came up for its final passage, Mr. Pinckney was sitting in the Convention, and did not take part in the proceedings of Congress.

two in 1819–20—there would be thirty of them. But this would be counting John Langdon, Roger Sherman, William Few, Rufus King, and George Read, each twice, and Abraham Baldwin three times. The true number of those of the "thirty-nine" whom I have shown to have acted upon the question, which, by the text, they understood better than we, is twenty-three, leaving sixteen not shown to have acted upon it in any way. (18)

Here, then, we have twenty-three out of our thirty-nine fathers "who framed the Government under which we live," who have, upon their official responsibility and their corporal oaths, acted upon the very question which the text affirms they "understood just as well, and even better than we do now;" and twenty-one of them—a clear majority of the whole "thirty-nine"—so acting upon it as to make them guilty of gross political impropriety and wilful perjury, if, in their understanding, any proper division between local and federal authority, or anything in the Constitution they had made themselves, and sworn to support, forbade the Federal Government to control as to slavery in the federal territories. Thus the twenty-one acted; and, as actions speak louder than words, so actions, under such responsibility, speak still louder.

Two of the twenty-three voted against Congressional prohibition of slavery in the federal territories, in the instances in which they acted upon the question. But for what reasons they so voted is not known. They may have done so because they thought a proper division of local from federal authority, or some provision or principle of the Constitution, stood in the way; or they may, without any such question, have voted against the prohibition, on what appeared to them to be sufficient grounds of expediency. No one who has sworn to support the Constitution, can conscientiously vote for what he understands to be an unconstitutional measure, however expedient he may think it; but one may and ought to vote against a measure which he deems constitutional, if, at the same time, he deems it inexpedient. It, therefore, would be unsafe to set down even the two who voted against the prohibition, as having done so because, in their understanding, any proper division of local from federal authority, or anything in the Constitu-

NOTE 18.—By reference to notes 4, 6, 10, 13, 15 and 16, it will be seen that, of the twenty-three who acted upon the question of prohibition, twelve were from the present slaveholding States.

tion, forbade the Federal Government to control as to slavery in federal territory. (19)

The remaining sixteen of the "thirty-nine," so far as I have discovered, have left no record of their understanding upon the direct question of federal control of slavery in the federal territories. But there is much reason to believe that their understanding upon that question would not have appeared different from that of their twenty-three compeers, had it been manifested at all. (20)

For the purpose of adhering rigidly to the text, I have purposely omitted whatever understanding may have been manifested by any person, however distinguished, other than the thirty-nine fathers who framed the original Constitution; and, for the same reason, I have also omitted whatever understanding may have been manifested by any of the "thirty-nine" even, on any other phase of the general question of slavery. If we should look into their acts and declarations on those other phases, as the foreign slave trade, and the morality and policy of slavery generally, it would appear to us that on the direct question of federal control of slavery in federal territories, the sixteen, if they had acted at all, would probably have acted just as the twenty-three did. Among that sixteen were several of the most noted anti-slavery men of those times—as Dr. Franklin, Alexander Hamilton and Gouverneur Morris—while there was not one now known to have been otherwise, unless it may be John Rutledge, of South Carolina. (21)

NOTE 19.—*Vide* notes 5 and 17, *ante*

NOTE 20.—"The remaining sixteen" were Nathaniel Gorham, Mass.; Alex. Hamilton, New-York; William Livingston and David Brearly, New Jersey; Benjamin Franklin, Jared Ingersoll, James Wilson and Gouverneur Morris, Penn.; Gunning Bedford, John Dickinson and Jacob Broom, Delaware; Daniel, of St. Thomas, Jenifer, Maryland; John Blair, Virginia; Richard Dobbs Spaight, North Carolina; and John Rutledge and Charles Cotesworth Pinckney, South Carolina.

NOTE 21.—"The only distinction between freedom and slavery consists in this: in the former state, a man is governed by the laws to which he has given his consent, either in person or by his representative; in the latter, he is governed by the will of another. In the one case, his life and property are his own; in the other, they depend upon the pleasure of a master. It is easy to discern which of the two states is preferable. No man in his senses can hesitate in choosing to be free rather than slave * * * * * * * * * * * * * Were not the disadvantages of slavery too obvious to stand in need of it, I might enumerate and describe the tedious train of calamities inseparable from it. I might show that it is fatal to religion and morality; that it tends to debase the mind, and corrupt its noblest springs of action. I might show that it relaxes the sinews of industry and clips the wings of commerce, and works misery and indigence in every shape."—*Hamilton, Works*, vol. 2, pp. 8, 9.

"That you will be pleased to countenance the restoration of *liberty* to those unhappy *men*, who alone in this land of freedom, are degraded into perpetual bondage, and who, amidst the general joy of surrounding freemen, are groaning in servile subjection; that you will devise means for removing this inconsistency from the character of the American people; that you will promote mercy and *justice* toward this distressed

The sum of the whole is, that of our thirty-nine fathers who framed the original Constitution, twenty-one—a clear majority of the whole—certainly understood that no proper division of local from federal authority, nor any part of the Constitution, forbade the Federal Government to control slavery in the federal territories; while all the rest probably had the same understanding. Such, unquestionably, was the understanding of our fathers who framed the original Constitution; and the text affirms that they understood the question "better than we."

But, so far, I have been considering the understanding of the question manifested by the framers of the original Constitution. In and by the original instrument, a mode was provided for amending it; and, as I have already stated, the present frame of "the Government under which we live" consists of that original, and twelve amendatory articles framed and adopted since. Those who now insist that federal control of slavery in federal territories violates the Constitution, point us to the provisions which they suppose it thus violates; and, as I understand, they all fix upon provisions in these amendatory articles, and not in the original instrument. The Supreme Court, in the Dred Scott case, plant themselves upon the fifth amendment which provides that no person shall be deprived of "life, liberty or property without due process of law;" while Senator Douglas and his peculiar adherents plant themselves upon the tenth amendment, providing that "the powers not delegated to the United States by the Constitution," "are reserved to the States respectively, or to the people." (22)

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race; and that you will step to the *very verge* of the power vested in you for discouraging every species of traffic in the persons of our fellow-men."—*Philadelphia, Feb. 3d, 1790. Franklin's Petition to Congress for the Abolition of Slavery.*

Mr. Gouverneur Morris said:—"He never would concur in upholding domestic slavery. It was a nefarious institution. It was the curse of heaven on the States where it prevailed. * * * The admission of slavery into the representation, when fairly explained, comes to this—that the inhabitant of South Carolina or Georgia, who goes to the coast of Africa, and, in defiance of the most sacred laws of humanity, tears away his fellow-creatures from their dearest connections, and damns them to the most cruel bondage, shall have more votes, in a government instituted for the protection of the rights of mankind, than the citizen of Pennsylvania or New Jersey, who views, with a laudable horror, so nefarious a practice. * * * * * * * He would sooner submit himself to a tax for paying for all the negroes in the United States than saddle posterity with such a constitution."—*Debate on Slave Representation in the Convention.—Madison Papers.*

NOTE 22.—An eminent jurist (Chancellor Walworth) has said that "The preamble which was prefixed to these amendments, as adopted by Congress, is important to show in what light that body considered them." (8 *Wend. R.*, p. 100.) It declares that a number of the State Conventions "having at the time of their adopting the Constitution *expressed a desire*, in order to prevent *misconstruction or abuse of its powers*, that further *declaratory* and restrictive clauses should be added," resolved, &c.

Now, it so happens that these amendments were framed by the first Congress which sat under the Constitution—the identical Congress which passed the act already mentioned, enforcing the prohibition of slavery in the Northwestern Territory. Not only was it the same Congress, but they were the identical, same individual men who, at the same session, and at the same time within the session, had under consideration, and in progress toward maturity, these Constitutional amendments, and this act prohibiting slavery in all the territory the nation then owned. The Constitutional amendments were introduced before, and passed after the act enforcing the Ordinance of '87; so that, during the whole pendency of the act to enforce the Ordinance, the Constitutional amendments were also pending. (23)

The seventy-six members of that Congress, including sixteen of the framers of the original Constitution, as before stated, were pre-eminently our fathers who framed that part of "the Government under which we live," which is now claimed as forbidding the Federal Government to control slavery in the federal territories.

Is it not a little presumptuous in any one at this day to affirm that the two things which that Congress deliberately framed, and carried to maturity at the same time, are absolutely inconsistent with each other? And does not such affirmation become impudently absurd when coupled with the other affirmation from the same mouth, that those who did the two things, alleged to be inconsistent, understood whether they really were inconsistent better than we—better than he who affirms that they are inconsistent?

It is surely safe to assume that the thirty-nine framers of the original Constitution, and the seventy-six members of the Congress

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This preamble is in substance the preamble affixed to the "Conciliatory Resolutions" of Massachusetts, which were drawn by Chief Justice Persons, and offered in the Convention as a compromise by John Hancock. (*Life Ch. J. Parsons*, p. 67.) They were afterward copied and adopted with some additions by New Hampshire.

The fifth amendment, on which the Supreme Court relies, is taken almost literally from the declaration of rights put forth by the convention of New-York, and the clause referred to forms the ninth paragraph of the declaration. The tenth amendment, on which Senator Douglas relies, is taken from the Conciliatory Resolutions, and is the first of those resolutions somewhat modified. Thus, these two amendments sought to be used for slavery, originated in the two great anti-slavery States, New-York and Massachusetts.

NOTE 23.—The amendments were proposed by Mr. Madison in the House of Representatives, June 8, 1789. They were adopted by the House, August 24, and some further amendments seem to have been transmitted by the Senate, September 9. The printed journals of the Senate do not state the time of the final passage, and the message transmitting them to the State Legislatures speaks of them as adopted at the first session, begun on the fourth day of March, 1789. The date of the introduction and passage of the act enforcing the ordinance of '87, will be found at note 9, *ante*.

which framed the amendments thereto, taken together, do certainly include those who may be fairly called "our fathers who framed the Government under which we live." (24) And so assuming, I defy any man to show that any one of them ever, in his whole life, declared that, in his understanding, any proper division of local from federal authority, or any part of the Constitution, forbade the Federal Government to control as to slavery in the federal territories. I go a step further. I defy any one to show that any living man in the whole world ever did, prior to the beginning of the present century, (and I might almost say prior to the beginning of the last half of the present century,) declare that, in his understanding, any proper division of local from federal authority, or any part of the Constitution, forbade the Federal Government to control as to slavery in the federal territories. To those who now so declare, I give, not only "our fathers who framed the Government under which we live," but with them all other living men within the century in which it was framed, among whom to search, and they shall not be able to find the evidence of a single man agreeing with them.

Now, and here, let me guard a little against being misunderstood. I do not mean to say we are bound to follow implicitly in whatever our fathers did. To do so, would be to discard all the lights of current experience—to reject all progress—all improvement. What I do say is, that if we would supplant the opinions and policy of our fathers in any case, we should do so upon evidence so conclusive, and argument so clear, that even their great authority, fairly considered and weighed, cannot stand; and most surely not in a case whereof we ourselves declare they understood the question better than we.

If any man at this day sincerely believes that a proper division of local from federal authority, or any part of the Constitution, forbids the Federal Government to control as to slavery in the federal territories, he is right to say so, and to enforce his position by all truthful evidence and fair argument which he can. But he has no right to mislead others, who have less access to history, and less leisure to study it, into the false belief that "our fathers,

NOTE 24.—It is singular that while two of the "thirty-nine" were in that Congress of 1819, there was but one (besides Mr. King) of the "seventy-six." The one was William Smith, of South Carolina. He was then a Senator, and, like Mr. Pinckney, occupied extreme Southern ground.

who framed the Government under which we live," were of the same opinion—thus substituting falsehood and deception for truthful evidence and fair argument. If any man at this day sincerely believes "our fathers who framed the Government under which we live," used and applied principles, in other cases, which ought to have led them to understand that a proper division of local from federal authority or some part of the Constitution, forbids the Federal Government to control as to slavery in the federal territories, he is right to say so. But he should, at the same time, brave the responsibility of declaring that, in his opinion, he understands their principles better than they did themselves; and especially should he not shirk that responsibility by asserting that they "understood the question just as well, and even better, than we do now."

But enough! *Let all who believe that "our fathers, who framed the Government under which we live, understood this question just as well, and even better, than we do now," speak as they spoke, and act as they acted upon it. This is all Republicans ask—all Republicans desire—in relation to slavery. As those fathers marked it, so let it be again marked, as an evil not to be extended, but to be tolerated and protected only because of and so far as its actual presence among us makes that toleration and protection a necessity. Let all the guaranties those fathers gave it, be, not grudgingly, but fully and fairly maintained.* For this Republicans contend, and with this, so far as I know or believe, they will be content.

And now, if they would listen—as I suppose they will not—I would address a few words to the Southern people.

I would say to them:—You consider yourselves a reasonable and a just people; and I consider that in the general qualities of reason and justice you are not inferior to any other people. Still, when you speak of us Republicans, you do so only to denounce us as reptiles, or, at the best, as no better than outlaws. You will grant a hearing to pirates or murderers, but nothing like it to "Black Republicans." In all your contentions with one another, each of you deems an unconditional condemnation of "Black Republicanism" as the first thing to be attended to. Indeed, such condemnation of us seems to be an indispensable prerequisite—license, so to speak—among you to be admitted or permitted to speak at all. Now, can you, or not, be prevailed upon to pause

and to consider whether this is quite just to us, or even to yourselves? Bring forward your charges and specifications, and then be patient long enough to hear us deny or justify

You say we are sectional. We deny it. That makes an issue; and the burden of proof is upon you. You produce your proof; and what is it? Why, that our party has no existence in your section—gets no votes in your section. The fact is substantially true; but does it prove the issue? If it does, then in case we should, without change of principle, begin to get votes in your section, we should thereby cease to be sectional. You cannot escape this conclusion; and yet, are you willing to abide by it? If you are, you will probably soon find that we have ceased to be sectional, for we shall get votes in your section this very year. You will then begin to discover, as the truth plainly is, that your proof does not touch the issue. The fact that we get no votes in your section, is a fact of your making, and not of ours. And if there be fault in that fact, that fault is primarily yours, and remains so until you show that we repel you by some wrong principle or practice. If we do repel you by any wrong principle or practice, the fault is ours; but this brings you to where you ought to have started—to a discussion of the right or wrong of our principle. If our principle, put in practice, would wrong your section for the benefit of ours, or for any other object, then our principle, and we with it, are sectional, and are justly opposed and denounced as such. Meet us, then, on the question of whether our principle, put in practice, would wrong your section; and so meet us as if it were possible that something may be said on our side. Do you accept the challenge? No! Then you really believe that the principle which "our fathers who framed the Government under which we live" thought so clearly right as to adopt it, and indorse it again and again, upon their official oaths, is in fact so clearly wrong as to demand your condemnation without a moment's consideration.

Some of you delight to flaunt in our faces the warning against sectional parties given by Washington in his Farewell Address. Less than eight years before Washington gave that warning, he had, as President of the United States, approved and signed an act of Congress, enforcing the prohibition of slavery in the Northwestern Territory, which act embodied the policy of the Govern-

ment upon that subject up to and at the very moment he penned that warning; and about one year after he penned it, he wrote La Fayette that he considered that prohibition a wise measure, expressing in the same connection his hope that we should at some time have a confederacy of free States. (25)

Bearing this in mind, and seeing that sectionalism has since arisen upon this same subject, is that warning a weapon in your hands against us, or in our hands against you? Could Washington himself speak, would he cast the blame of that sectionalism upon us, who sustain his policy, or upon you who repudiate it? We respect that warning of Washington, and we commend it to you, together with his example pointing to the right application of it.

But you say you are conservative—eminently conservative—while we are revolutionary, destructive, or something of the sort. What is conservatism? Is it not adherence to the old and tried, against the new and untried? We stick to, contend for, the identical old policy on the point in controversy which was adopted by "our fathers who framed the Government under which we live;" while you with one accord reject, and scout, and spit upon that old policy, and insist upon substituting something new. True, you disagree among yourselves as to what that substitute shall be. You are divided on new propositions and plans, but you are unanimous in rejecting and denouncing the old policy of the fathers. Some of you are for reviving the foreign slave trade; some for a Congressional Slave-Code for the Territories; some for Congress forbidding the Territories to prohibit Slavery within their limits; some for maintaining Slavery in the Territories through the judiciary; some for the "gur-reat pur-rinciple" that "if one man would enslave another, no third man should object," fantastically

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NOTE 25.—The following is an extract from the letter referred to:—

"I agree with you cordially in your views in regard to negro slavery. I have long considered it a most serious evil, both socially and politically, and I should rejoice in any feasible scheme to rid our States of such a burden. The Congress of 1787 adopted an ordinance which prohibits the existence of involuntary servitude in our Northwestern Territory forever. I consider it a wise measure. It meets with the approval and assent of nearly every member from the States more immediately interested in Slave labor. The prevailing opinion in Virginia is against the spread of slavery in our new territories, and I trust we shall have a confederation of free States."

The following extract from a letter of Washington to Robert Morris, April 12th, 1786, shows how strong were his views, and how clearly he deemed emancipation a subject for legislative enactment:—"I can only say that there is no man living who wishes more sincerely than I do to see a plan adopted for the abolition of it; but there is but one proper and effective mode by which it can be accomplished, and that is, BY LEGISLATIVE AUTHORITY, and that, as far as *my suffrage will go, shall never be wanting.*"

called "Popular Sovereignty;" but never a man among you in favor of federal prohibition of slavery in federal territories, according to the practice of "our fathers who framed the Government under which we live." Not one of all your various plans can show a precedent or an advocate in the century within which our Government originated. Consider, then, whether your claim of conservatism for yourselves, and your charge of destructiveness against us, are based on the most clear and stable foundations.

Again, you say we have made the slavery question more prominent than it formerly was. We deny it. We admit that it is more prominent, but we deny that we made it so. It was not we, but you, who discarded the old policy of the fathers. We resisted, and still resist, your innovation; and thence comes the greater prominence of the question. Would you have that question reduced to its former proportions? Go back to that old policy. What has been will be again, under the same conditions. If you would have the peace of the old times, readopt the precepts and policy of the old times.

You charge that we stir up insurrections among your slaves. We deny it; and what is your proof? Harper's Ferry! John Brown!! John Brown was no Republican; and you have failed to implicate a single Republican in his Harper's Ferry enterprise. If any member of our party is guilty in that matter, you know it or you do not know it. If you do know it, you are inexcusable for designating the man and proving the fact. If you do not know it, you are inexcusable for asserting it, and especially for persisting in the assertion after you have tried and failed to make the proof. You need not be told that persisting in a charge which one does not know to be true, is simply malicious slander. (26)

NOTE 26.—A Committee of five, consisting of Messrs. Mason, Davis and Fitch, (Democrats,) and Collamer and Doolittle, (Republicans,) was appointed Dec. 14, 1859, by the U. S. Senate, to investigate the Harper's Ferry affair. That Committee was directed, among other things, to inquire: (1) "Whether such invasion and seizure was "made under color of any organization intended to subvert the government of any of "the States of the Union." (2.) "What was the character and extent of such organiza-"tion." (3.) "And whether any citizens of the United States, not present, were impli-"cated therein, or accessory thereto, by contributions of money, arms, munitions, or "otherwise."

The majority of the Committee, Messrs. Mason, Davis, and Fitch, reply to the inquiries as follows:

1. "There will be found in the Appendix, a copy of the proceedings of a Conven-"tion held at Chatham, Canada, of the Provisional Form of Government there pretended "to have been instituted, the object of which clearly was to subvert the government of "one or more States, and of course, to that extent, the government of the United States."

By reference to the copy of Proceedings it appears that *nineteen* persons were

Some of you admit that no Republican designedly aided or encouraged the Harper's Ferry affair; but still insist that our doctrines and declarations necessarily lead to such results. We do not believe it. We know we hold to no doctrine, and make no declaration, which were not held to and made by "our fathers who framed the Government under which we live." You never dealt fairly by us in relation to this affair. When it occurred, some important State elections were near at hand, and you were in evident glee with the belief that, by charging the blame upon us, you could get an advantage of us in those elections. The elections came, and your expectations were not quite fulfilled. Every Republican man knew that, as to himself at least, your charge was a slander, and he was not much inclined by it to cast his vote in your favor. Republican doctrines and declarations are accompanied with a continual protest against any interference whatever with your slaves, or with you about your slaves. Surely, this does not encourage them to revolt. True, we do, in common with "our fathers, who framed the Government under which we live," declare our belief that slavery is wrong; but the slaves do not hear us declare even this. For anything we say or do, the slaves would scarcely know there is a Republican party. I believe they would not, in fact, generally know it but for your misrepresentations of us, in their hearing. In your political contests among yourselves, each faction charges the other with sympathy with Black Republicanism; and then, to give point to the charge, defines Black Republicanism to simply be insurrection, blood and thunder among the slaves.

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present at that Convention, *eight* of whom were either killed or executed at Charlestown, and one examined before the Committee.

2. "The character of the military organization appears, by the commissions issued to "certain of the armed party as captains, lieutenants, &c., a specimen of which will be "found in the Appendix."

(These Commissions are signed by John Brown as Commander-in-Chief, under the Provisional Government, and by J. H. Kagi as Secretary.)

"It clearly appeared that the scheme of Brown was to take with him comparatively "but few men; but those had been carefully trained by military instruction previously, "and were to act as officers. For his military force he relied, very clearly, on inciting "insurrection amongst the Slaves."

3. "It does not appear that the contributions were made with actual knowledge of "the use for which they were designed by Brown, although it does appear that money "was freely contributed by those styling themselves the friends of this man Brown, "and friends alike of what they styled the cause of freedom, (of which they claimed "him to be an especial apostle,) without inquiring as to the way in which the money "would be used by him to advance such pretended cause."

In concluding the report the majority of the Committee thus characterize the "invasion:" "It was simply the act of lawless ruffians, under the sanction of no public or "political authority—distinguishable only from ordinary felonies by the ulterior ends "in contemplation by them," &c.

Slave insurrections are no more common now than they were before the Republican party was organized. What induced the Southampton insurrection, twenty-eight years ago, in which, at least, three times as many lives were lost as at Harper's Ferry? (27) You can scarcely stretch your very elastic fancy to the conclusion that Southampton was "got up by Black Republicanism." In the present state of things in the United States, I do not think a general, or even a very extensive slave insurrection, is possible. The indispensable concert of action cannot be attained. The slaves have no means of rapid communication; nor can incendiary freemen, black or white, supply it. The explosive materials are everywhere in parcels; but there neither are, nor can be supplied, the indispensable connecting trains.

Much is said by Southern people about the affection of slaves for their masters and mistresses; and a part of it, at least, is true. A plot for an uprising could scarcely be devised and communicated to twenty individuals before some one of them, to save the life of a favorite master or mistress, would divulge it. This is the rule; and the slave revolution in Hayti was not an exception to it, but a case occurring under peculiar circumstances. (28) The gunpowder plot of British history, though not connected with slaves, was more in point. In that case, only about twenty were admitted to the secret; and yet one of them, in his anxiety to save a friend,

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NOTE 27.—The Southampton insurrection, August, 1831, was induced by the remarkable ability of a slave calling himself General Nat Turner. He led his fellow bondmen to believe that he was acting under the order of Heaven. In proof of this he alleged that the singular appearance of the sun at that time was a divine signal for the commencement of the struggle which would result in the recovery of their freedom. This insurrection resulted in the death of sixty-four white persons, and more than one hundred slaves. The Southampton was the eleventh large insurrection in the Southern States, besides numerous attempts and revolts.

NOTE 28.—In March, 1790, the General Assembly of France, on the petition of the *free* people of color in St. Domingo, many of whom were intelligent and wealthy, passed a decree intended to be in their favor, but so ambiguous as to be construed in favor of both the whites and the blacks. The differences growing out of the decree created two parties—the *whites* and the people of color; and some blood was shed. In 1791, the blacks again petitioned, and a decree was passed declaring the colored people citizens, who were born of free parents on both sides. This produced great excitement among the whites, and the two parties armed against each other, and horrible massacres and conflagrations followed. Then the Assembly rescinded this last decree, and like results followed, the blacks being the exasperated parties and the aggressors. Then the decree giving citizenship to the blacks was restored, and commissioners were sent out to keep the peace. The commissioners, unable to sustain themselves, between the two parties, with the troops they had, issued a proclamation that all blacks who were willing to range themselves under the banner of the Republic should be free. As a result a very large proportion of the blacks became in fact free. In 1794, the Conventional Assembly *abolished slavery* throughout the French Colonies. Some years afterward the French Government sought, with an army of 60,000 men to reinstate slavery, but were unsuccessful, and then the white planters were driven from the Island.

betrayed the plot to that friend, and, by consequence, averted the calamity. Occasional poisonings from the kitchen, and open or stealthy assassinations in the field, and local revolts extending to a score or so, will continue to occur as the natural results of slavery; but no general insurrection of slaves, as I think, can happen in this country for a long time. Whoever much fears, or much hopes for such an event, will be alike disappointed.

In the language of Mr. Jefferson, uttered many years ago, "It is still in our power to direct the process of emancipation, and deportation, peaceably, and in such slow degrees, as that the evil will wear off insensibly; and their places be, *pari passu*, filled up by free white laborers. If, on the contrary, it is left to force itself on, human nature must shudder at the prospect held up."(29)

Mr. Jefferson did not mean to say, nor do I, that the power of emancipation is in the Federal Government. He spoke of Virginia; and, as to the power of emancipation, I speak of the slave-holding States only. The Federal Government, however, as we insist, has the power of restraining the extension of the institution—the power to insure that a slave insurrection shall never occur on any American soil which is now free from slavery.

John Brown's effort was peculiar. It was not a slave insurrection. It was an attempt by white men to get up a revolt among slaves, in which the slaves refused to participate. In fact, it was so absurd that the slaves, with all their ignorance, saw plainly enough it could not succeed. That affair, in its philosophy, corresponds with the many attempts, related in history, at the assassination of kings and emperors. An enthusiast broods over the oppression of a people till he fancies himself commissioned by Heaven to liberate them. He ventures the attempt, which ends in little else than his own execution. Orsini's attempt on Louis Napoleon, and John Brown's attempt at Harper's Ferry were, in their philosophy, precisely the same. The eagerness to cast blame on old England in the one case, and on New England in the other, does not disprove the sameness of the two things.

And how much would it avail you, if you could, by the use of John Brown, Helper's Book, and the like, break up the Republican organization? Human action can be modified to some extent, but

NOTE 29.—*Vide* Jefferson's Autobiography, commenced January 6th, 1821. Jefferson's Works, vol. 1, page 49.

human nature cannot be changed. There is a judgment and a feeling against slavery in this nation, which cast at least a million and a half of votes. You cannot destroy that judgment and feeling—that sentiment—by breaking up the political organization which rallies around it. You can scarcely scatter and disperse an army which has been formed into order in the face of your heaviest fire; but if you could, how much would you gain by forcing the sentiment which created it out of the peaceful channel of the ballot-box, into some other channel? What would that other channel probably be? Would the number of John Browns be lessened or enlarged by the operation?

But you will break up the Union rather than submit to a denial of your Constitutional rights. (30)

NOTE 30.—"I am not ashamed or afraid publicly to avow, that the election of "William H. Seward or Salmon P. Chase, or any such representative of the Republican "party, upon a sectional platform, ought to be resisted to the disruption of every tie that "binds this Confederacy together. (Applause on the Democratic side of the House.)" —*Mr. Curry, of Alabama, in the House of Representatives.*

"Just so sure as the Republican party succeed in electing a sectional man, upon "their sectional, anti-slavery platform, breathing destruction and death to the rights of "my people, just so sure, in my judgment, the time will have come when the South "must and will take an unmistakable and decided action; and then he who dallies is "a dastard, and he who doubts is damned! I need not tell what I, as a Southern man, "will do. I think I may safely speak for the masses of the people of Georgia—that "when that event happens, they, in my judgment, will consider it an overt act, a declara-"tion of war, and meet immediately in convention, to take into consideration the mode "and measure of redress. That is my position; and if that be treason to the Govern-"ment, make the most of it."—*Mr. Bartell, of Georgia, in the House of Representatives.*

"I said to my constituents, and to the people of the capital of my State, on my "way here, if such an event did occur,"—[*i. e.*, the election of a Republican President, "upon a Republican platform,] "while it would be their duty to determine the course "which the State would pursue, it would be my privilege to counsel with them as to "what I believed to be the proper course; and I said to them, what I say now, and "what I will always say in such an event, that my counsel would be to take indepen-"dence out of the Union in preference to the loss of constitutional rights, and conse-"quent degradation and dishonor, in it. That is my position, and it is the position "which I know the Democratic party of the State of Mississippi will maintain."—*Gov. McRae, of Mississippi.*

"It is useless to attempt to conceal the fact that, in the present temper of the "southern people, it" [*i. e.*, the election of a Republican President] "cannot be, and "will not be submitted to. The 'irrepressible conflict' doctrine, announced and advo-"cated by the ablest and most distinguished leader of the Republican party, is an open "declaration of war against the institution of slavery, wherever it exists; and I would "be disloyal to Virginia and the South, if I did not declare that the election of such a "man, entertaining such sentiment, and advocating such doctrines, *ought to be resisted* "*by the slaveholding States.* The idea of permitting such a man to have the control "and direction of the army and navy of the United States, and the appointment of high "judicial and executive officers, POSTMASTERS INCLUDED, *cannot* be entertained by the "South for a moment."—*Gov. Letcher, of Virginia.*

"Slavery *must* be maintained—in the Union, if possible; out of it, if necessary: "peaceably if we may; forcibly if we must."—*Senator Iverson, of Georgia.*

"Lincoln and Hamlin, the Black Republican nominees, will be elected in Novem-"ber next, and the South will then decide the great question whether they will submit to "the domination of Black Republican rule—the fundamental principle of their organiza-"tion being an open, undisguised, and declared war upon our social institutions. I be-"lieve that the honor and safety of the South, in that contingency, will require the prompt "secession of the slaveholding States from the Union; and failing then to obtain from "the free States additional and higher guaranties for the protection of our rights and pro-

That has a somewhat reckless sound; but it would be palliated, if not fully justified, were we proposing, by the mere force of numbers, to deprive you of some right, plainly written down in the Constitution. But we are proposing no such thing.

When you make these declarations, you have a specific and well-understood allusion to an assumed Constitutional right of yours, to take slaves into the federal territories, and to hold them there as property. But no such right is specifically written in the Constitution. That instrument is literally silent about any such right. We, on the contrary, deny that such a right has any existence in the Constitution, even by implication.

Your purpose, then, plainly stated, is, that you will destroy the Government, unless you be allowed to construe and enforce the Constitution as you please, on all points in dispute between you and us. You will rule or ruin in all events.

This, plainly stated, is your language. Perhaps you will say the Supreme Court has decided the disputed Constitutional question in your favor. Not quite so. But waiving the lawyer's distinction between dictum and decision, the Court have decided the question for you in a sort of way. The Court have substantially said, it is your Constitutional right to take slaves into the federal territories, and to hold them there as property. When I say the decision was made in a sort of way, I mean it was made in a divided Court, by a bare majority of the Judges, and they not quite agreeing with one another in the reasons for making it; (31) that it is so made as that

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perty, that the seceding States should proceed to establish a new government. But while I think such would be the imperative duty of the South, I should emphatically reprobate and repudiate any scheme having for its object the separate secession of South Carolina. If Georgia, Alabama and Mississippi alone—giving us a portion of the Atlantic and Gulf coasts—would unite with this State in a common secession upon the election of a Black Republican, I would give my assent to the policy."—*Letter of Hon. James L. Orr, of S. C., to John Martin and others, July* 23, 1860.

NOTE 31.—The Hon. John A. Andrew, of the Boston Bar, made the following analysis of the Dred Scott case in the Massachusetts legislature. Hon. Caleb Cushing was then a member of that body, but did not question its correctness.

"On the question of possibility of citizenship to one of the Dred Scott color, extraction, and origin, three justices, viz., Taney, Wayne and Daniels, held the negative. Nelson and Campbell passed over the plea by which the question was raised. Grier agreed with Nelson. Catron said the question was not open. McLean agreed with Catron, but thought the plea bad. Curtis agreed that the question was open, but attacked the plea, met its averments, and decided that a free born colored person, native to any State, is a citizen thereof, by birth, and is therefore a citizen of the Union, and entitled to sue in the Federal Courts.

"Had a majority of the court directly sustained the plea in abatement, and denied the jurisdiction of the Circuit Court appealed from, then all else they could have said and done would have been done and said in a cause not theirs to try and not theirs to discuss. In the absence of such majority, one step more was to be taken. And the next step reveals an agreement of six of the Justices, on a point decisive of the cause, and putting an end to all the functions of the court.

its avowed supporters disagree with one another about its meaning, and that it was mainly based upon a mistaken statement of fact—the statement in the opinion that "the right of property in a slave is distinctly and expressly affirmed in the Constitution." (32)

An inspection of the Constitution will show that the right of property in a slave is not "*distinctly* and *expressly* affirmed" in it. Bear in mind, the Judges do not pledge their judicial opinion that such right is *impliedly* affirmed in the Constitution; but they pledge their veracity that it is "*distinctly* and *expressly*" affirmed there—"distinctly," that is, not mingled with anything else—"expressly," that is, in words meaning just that, without the aid of any inference, and susceptible of no other meaning.

If they had only pledged their judicial opinion that such right is affirmed in the instrument by implication, it would be open to others to show that neither the word "slave" nor "slavery" is to be found in the Constitution, nor the word "property" even, in any connection with language alluding to the things slave, or slavery, and that wherever in that instrument the slave is alluded to, he is called a "person;"—and wherever his master's legal

"It is this. Scott was first carried to Rock Island, in the State of Illinois, where he remained about two years, before going with his master to Fort Snelling, in the Territory of Wisconsin. His claim to freedom was rested on the alleged effect of his translation from a slave State, and again into a free territory. If, by his removal to Illinois, he became emancipated from his master, the subsequent continuance of his pilgrimage into the Louisiana purchase could not add to his freedom, nor alter the fact. If, by reason of any want or infirmity in the laws of Illinois, or of conformity on his part to their behests, Dred Scott remained a slave while he remained in that State, then—for the sake of learning the effect on him of his territorial residence beyond the Mississippi, and of his marriage and other proceedings there, and the effect of the sojournment and marriage of Harriet, in the same territory, upon herself and her children—it might become needful to advance one other step into the investigation of the law; to inspect the Missouri Compromise, banishing slavery to the south of the line of 36° 30′ in the Louisiana purchase.

"But no exigency of the cause ever demanded or justified that advance; for six of the Justices, including the Chief Justice himself, decided that the *status* of the plaintiff, as free or slave, was dependent, not upon the laws of the State into which he had been, but of the State of Missouri, in which he was at the commencement of the suit. The Chief Justice asserted that 'it is now firmly settled by the decisions of the highest court in the State, that Scott and his family, on their return were not free, but were, by the laws of Missouri, the property of the defendant.' This was the burden of the opinion of Nelson, who declares 'the question is one solely depending upon the law of Missouri, and that the federal Court, sitting in the State, and trying the case before us, was bound to follow it.' It received the emphatic endorsement of Wayne, whose general concurrence was with the Chief Justice. Grier concurred in set terms with Nelson on all 'the questions discussed by him.' Campbell says, 'The claim of the plaintiff to freedom depends upon the effect to be given to his absence from Missouri, in company with his master in Illinois and Minnesota, *and this effect is to be ascertained by reference to the laws of Missouri.*' Five of the Justices, then, (if no more of them,) regard the law of Missouri as decisive of the plaintiff's rights."

NOTE 32.—"Now, as we have already said in an earlier part of this opinion upon a different point, the right of property in a slave is distinctly and expressly affirmed in the Constitution. The right to traffic in it, *like an ordinary article of merchandise and property*, was guaranteed to the citizens of the United States in every State that might desire it for twenty years."—*Ch. J. Taney*, 19 *How. U. S. R.*, p. 451. *Vide* language of Mr. Madison, note 34, as to "*merchandise.*"

right in relation to him is alluded to, it is spoken of as "service or labor which may be due,"—as a debt payable in service or labor. (33) Also, it would be open to show, by contemporaneous history, that this mode of alluding to slaves and slavery, instead of speaking of them, was employed on purpose to exclude from the Constitution the idea that there could be property in man.

To show all this, is easy and certain. (34)

NOTE 33.—Not only was the right of property *not* intended to be "distinctly and expressly affirmed in the Constitution;" but the following extract from Mr. Madison demonstrates that the utmost care was taken to avoid so doing:—

"The clause as originally offered [respecting fugitive slaves] read 'If any person LEGALLY bound to service or labor in any of the United States shall escape into another State,' etc., etc. (Vol. 3, p. 1456.) In regard to this, Mr. Madison says, "The term '*legally*' was struck out, and the words 'under the laws thereof,' inserted after the word State, in compliance with the wish of some who thought the term 'legally' equivocal and favoring the idea that slavery was legal in a moral point of view."—*Ib.*, p. 1589.

NOTE 34.—We subjoin a portion of the history alluded to by Mr. Lincoln. The following extract relates to the provision of the Constitution relative to the slave trade. (Article I, Sec. 9.)

25th August, 1787.—The report of the Committee of eleven being taken up, Gen. [Charles Cotesworth] Pinckney moved to strike out the words "the year 1800," and insert the words "the year 1808."

Mr. Gorham seconded the motion.

Mr. Madison—Twenty years will produce all the mischief that can be apprehended from the liberty to import slaves. So long a term will be more dishonorable to the American character than to say nothing about it in the Constitution.

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Mr. Gouverneur Morris was for making the clause read at once—

"The importation of slaves into North Carolina, South Carolina, and Georgia, shall not be prohibited," &c.

This, he said, would be most fair, and would avoid the ambiguity by which, under the power with regard to naturalization the liberty reserved to the States might be defeated. He wished it to be known, also, that this part of the Constitution was a compliance with those States. If the change of language, however, should be objected to by the members from those States, he should not urge it.

Col. Mason, (of Va.,) was not against using the term "slaves," but against naming North Carolina, South Carolina, and Georgia, lest it should give offence to the people of those States.

Mr. Sherman liked a description better than the terms proposed, which had been declined by the old Congress, and were not pleasing to some people.

Mr. Clymer concurred with Mr. Sherman.

Mr. Williamson, of North Carolina, said that *both in opinion and practice he was against slavery; but thought it more in favor of humanity, from a view of all circumstances, to let in South Carolina and Georgia, on those terms, than to exclude them from the Union.*

Mr. Morris withdrew his motion.

Mr. Dickinson wished the clause to be confined to the States which had not themselves prohibited the importation of slaves, and for that purpose moved to amend the clause so as to read—

"The importation of slaves into such of the States as shall permit the same, shall not be prohibited by the Legislature of the United States, until the year 1808," which was disagreed to, *nem. con.*

The first part of the report was then agreed to as follows:

"The migration or importation of such persons as the several States now existing shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1808."

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Mr. Sherman was against the second part, ["but a tax or duty may be imposed on such migration or importation at a rate not exceeding *the average of the duties laid on imports*,"] as acknowledging men to be property by taxing them as such under the *character* of slaves.

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Mr. Madison *thought it wrong to admit in the Constitution the idea that there could*

When this obvious mistake of the Judges shall be brought to their notice, is it not reasonable to expect that they will withdraw the mistaken statement, and reconsider the conclusion based upon it?

And then it is to be remembered that "our fathers, who framed the Government under which we live"—the men who made the Constitution—decided this same Constitutional question in our favor, long ago—decided it without division among themselves, when making the decision; without division among themselves about the meaning of it after it was made, and, so far as any evidence is left, without basing it upon any mistaken statement of facts.

Under all these circumstances, do you really feel yourselves justified to break up this Government, unless such a court decision as yours is, shall be at once submitted to as a conclusive and final rule of political action? But you will not abide the election of a Republican President! In that supposed event, you say, you will destroy the Union; and then, you say, the great crime of having destroyed it will be upon us! That is cool. A highwayman holds a pistol to my ear, and mutters through his teeth, "Stand and deliver, or I shall kill you, and then you will be a murderer!"

To be sure, what the robber demanded of me—my money—was my own; and I had a clear right to keep it; but it was no more my own than my vote is my own; and the threat of death to me, to extort my money, and the threat of destruction to the Union, to extort my vote, can scarcely be distinguished in principle.

A few words now to Republicans. *It is exceedingly desirable that all parts of this great Confederacy shall be at peace, and in harmony, one with another. Let us Republicans do our part to have it so. Even though much provoked, let us do nothing through passion and ill temper. Even though the southern people will not so much as listen to us, let us calmly consider their demands, and yield to them if, in our deliberate view of our duty, we possibly can.* (35) Judging by all they say and do, and by the subject and nature of their controversy with us, let us determine, if we can, what will satisfy them.

Will they be satisfied if the Territories be unconditionally sur-

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* *we property in men.* The reason of duties did not hold, as slaves *are not, like merchandise*, consumed.

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It was finally agreed, *nem. con.* to make the clause read—

"But a tax or duty may be imposed on such importation, not exceeding *ten dollars* for each PERSON."—*Madison Papers, Aug.* 25, 1787.

NOTE 35.—Compare this noble passage and that at page 18, with the twaddle of Mr. Orr, (note 30,) and the slang of Mr. Douglas, (note 27.)

rendered to them? We know they will not. In all their present complaints against us, the Territories are scarcely mentioned. Invasions and insurrections are the rage now. Will it satisfy them, if, in the future, we have nothing to do with invasions and insurrections? We know it will not. We so know, because we know we never had anything to do with invasions and insurrections; and yet this total abstaining does not exempt us from the charge and the denunciation.

The question recurs, what will satisfy them? Simply this: We must not only let them alone, but we must, somehow, convince them that we do let them alone. This, we know by experience, is no easy task. We have been so trying to convince them from the very beginning of our organization, but with no success. In all our platforms and speeches we have constantly protested our purpose to let them alone; but this has had no tendency to convince them. Alike unavailing to convince them, is the fact that they have never detected a man of us in any attempt to disturb them.

These natural, and apparently adequate means all failing, what will convince them? This, and this only: cease to call slavery *wrong*, and join them in calling it *right*. And this must be done thoroughly—done in *acts* as well as in *words*. Silence will not be tolerated—we must place ourselves avowedly with them. Senator Douglas's new sedition law must be enacted and enforced, suppressing all declarations that slavery is wrong, whether made in politics, in presses, in pulpits, or in private. We must arrest and return their fugitive slaves with greedy pleasure. We must pull down our Free State constitutions. The whole atmosphere must be disinfected from all taint of opposition to slavery, before they will cease to believe that all their troubles proceed from us.

I am quite aware they do not state their case precisely in this way. Most of them would probably say to us, "Let us alone, *do* nothing to us, and *say* what you please about slavery." But we do let them alone—have never disturbed them—so that, after all, it is what we say, which dissatisfies them. They will continue to accuse us of doing, until we cease saying.

I am also aware they have not, as yet, in terms, demanded the overthrow of our Free-State Constitutions. (36) Yet those Constitutions declare the wrong of slavery, with more solemn emphasis,

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NOTE 36.—That demand has since been made. Says MR. O'CONOR, counsel for the State of Virginia in the *Lemon Case*, page 44: "We claim that under these various "provisions of the Federal Constitution, a citizen of Virginia has an immunity against "the operation of any law which the State of New-York can enact, whilst he is a stran-

than do all other sayings against it, and when all these other sayings shall have been silenced, the overthrow of these Constitutions will be demanded, and nothing be left to resist the demand. It is nothing to the contrary, that they do not demand the whole of this just now. Demanding what they do, and for the reason they do, they can voluntarily stop nowhere short of this consummation. Holding, as they do, that slavery is morally right, and socially elevating, they cannot cease to demand a full national recognition of it, as a legal right, and a social blessing. (37)

Nor can we justifiably withhold this, on any ground save our conviction that slavery is wrong. If slavery is right, all words, acts, laws, and constitutions against it, are themselves wrong, and should be silenced, and swept away. If it is right, we cannot justly object to its nationality—its universality; if it is wrong, they

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"ger and wayfarer, or whilst passing through our territory; and that he has absolute "protection for all his domestic rights, and for all his rights of property, which under "the laws of the United States, and the laws of his own State, he was entitled to, "whilst in his own State. We claim this, and neither more NOR LESS."

Throughout the whole of that case, in which the right to pass through New-York with slaves at the pleasure of the slave owners is maintained, it is nowhere contended that the statute is contrary to the Constitution of New-York; but that the statute and the Constitution of the State are both contrary to the Constitution of the United States.

The State of Virginia, not content with the decision of our own courts upon the right claimed by them, is now engaged in carrying this, the Lemon case, to the Supreme Court of the United States, hoping by a decision there, in accordance with the intimations in the Dred Scott case, to overthrow the Constitution of New-York.

Senator Toombs, of Georgia, has claimed in the Senate, that laws of Connecticut, Maine, Massachusetts, Michigan, New Hampshire, Ohio, Rhode Island, Vermont, and Wisconsin, for the exclusion of slavery, conceded to be warranted by the State Constitutions, are contrary to the Constitution of the United States, and has asked for the enactment of laws by the General Government which shall override the laws of those States and the Constitutions which authorize them.

NOTE 37.—"Policy, humanity, and Christianity, alike forbid the extension of the evils of free society to new people and coming generations."—*Richmond Enquirer, Jan.* 22, 1856.

"I am satisfied that the mind of the South has undergone a change to this great ex-"tent, that it is now the *almost universal belief* in the South, not only that the con-"dition of African slavery in their midst, is the best condition to which the African "race has ever been subjected, but that *it has the effect of ennobling both races, the* "*white and the black*."—*Senator Mason, of Virginia.*

"I declare again, as I did in reply to the Senator from Wisconsin (Mr. Doolittle,) that, in my opinion, slavery is a great moral, social and political blessing—a blessing to the slave, and a blessing to the master."—*Mr. Brown, in the Senate, March* 6, 1860.

"I am a Southern States' Rights man; I am an African slave-trader. I am one of those Southern men who believe that slavery is right—morally, religiously, socially, and politically." (Applause.)

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"I represent the African Slave-trade interests of that section. (Applause.) I am proud of the position I occupy in that respect. I believe the African Slave-trader is a true missionary and a true Christian." (Applause.)—*Mr. Gaulden, a delegate from First Congressional District of Georgia, in the Charleston Convention, now a supporter of Mr. Douglas.*

"Ladies and gentlemen, I would gladly speak again, but you see from the tones of my voice, that I am unable to. This has been a happy, a glorious day. I shall never forget it. There is a charm about this beautful day, about this sea air, and especially about that peculiar institution of yours—a clam bake. I think you have the advantage, in that respect, of Southerners. For my own part, I have much more fondness for your clams than I have for their niggers. But every man to his taste."—*Hon. Stephen A. Douglas's Address at Rocky Point, R. I., Aug.* 2, 1860.

cannot justly insist upon its extension—its enlargement. All they ask, we could readily grant, if we thought slavery right; all we ask, they could as readily grant, if they thought it wrong. (38) Their thinking it right, and our thinking it wrong, is the precise fact upon which depends the whole controversy. Thinking it right, as they do, they are not to blame for desiring its full recognition, as being right; but, thinking it wrong, as we do, can we yield to them? Can we cast our votes with their view, and against our own? In view of our moral, social, and political responsibilities, can we do this?

Wrong as we think slavery is, we can yet afford to let it alone where it is, because that much is due to the necessity arising from its actual presence in the nation; but can we, while our votes will prevent it, allow it to spread into the National Territories, and to overrun us here in these Free States? If our sense of duty forbids this, then let us stand by our duty, fearlessly and effectively. Let us be diverted by none of those sophistical contrivances wherewith we are so industriously plied and belabored—contrivances such as groping for some middle ground between the right and the wrong, vain as the search for a man who should be neither a living man nor a dead man—such as a policy of "don't care" on a question about which all true men do care—such as Union appeals beseeching true Union men to yield to Disunionists, reversing the divine rule, and calling, not the sinners, but the righteous to repentance—such as invocations to Washington, imploring men to unsay what Washington said, and undo what Washington did.

Neither let us be slandered from our duty by false accusations against us, nor frightened from it by menaces of destruction to the Government nor of dungeons to ourselves. LET US HAVE FAITH THAT RIGHT MAKES MIGHT, AND IN THAT FAITH, LET US, TO THE END, DARE TO DO OUR DUTY AS WE UNDERSTAND IT.

NOTE 38.—It is interesting to observe how two profoundly logical minds, though holding extreme, opposite views, have deduced this common conclusion. Says Mr. O'Conor, the eminent leader of the New-York Bar, and the counsel for the State of Virginia in the Lemon case, in his speech at Cooper institute, December 19th, 1859:—

"That is the point to which this great argument must come—Is negro slavery unjust? If it is unjust, it violates that first rule of human conduct—'Render to every man his due.' If it is unjust, it violates the law of God which says, 'Love thy neighbor as thyself,' for that requires that we should perpetrate no injustice. Gentleman, if it could be maintained that negro slavery was unjust, perhaps I might be prepared—perhaps we all ought to be prepared—to go with that distinguished man to whom allusion is frequently made, and say, 'There is a higher law which compels us to trample beneath our feet the Constitution established by our fathers, with all the blessings it secures to their children.' But I insist—and that is the argument which we must meet, and on which we must come to a conclusion that shall govern our actions in the future selection of representatives in the Congress of the United States—I insist that negro slavery is not unjust."